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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,985	01/15/2002	Shinako Kaneko	Q67962	3529
7590	04/29/2005			
SUGHRUE MION, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213				EXAMINER THOMAS, ERIC W
				ART UNIT 2831 PAPER NUMBER

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/044,985	KANEKO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eric W. Thomas	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 17 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 10-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 16 is/are allowed.
- 6) Claim(s) 10-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1/15/02 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. 09/619708.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1/02, 09, 1/04

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

- ET 4/27/05

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of group II in the reply filed on 2/17/05 is acknowledged.

***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 5,626,729) In view of Gazard et al. (US 4,502,934).

Gazard et al. disclose an indole compound electrode active material; said indole polymeric compound using a proton as a charge carrier (electrochemical cell) wherein the polymeric compound is formed of a (poly (5-cyanoindole)).

Gazard et al. disclose the claimed invention except for the electrochemical cell is a capacitor.

Thompson et al. teach that it is known in the electrochemical capacitor cell art to use a conductive polymer electrode (see col. 3 lines 1-45).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form use the poly (5-cyanoindole) as disclosed in Gazard et al., in the capacitor of Thompson, since such a modification would provide a system for the active material to function in and would provide an electrode having an improved performance, reduced response time, great stability and improve the life-span of capacitor.

Regarding claim 11, Gazard et al. disclose the claimed invention except for an indole polymeric compound electrode containing 30-95 % by weight of the indole polymeric compound. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the indole polymeric compound electrode containing 30-95 % by weight of the indole polymeric compound, since it has been held

that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

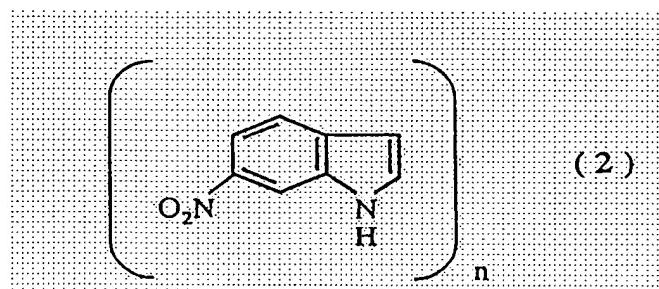
Regarding claims 12 and 14, Gazard et al. disclose the claimed invention except for the proton contained in the solution of the electrolyte containing  $10^{-3}$  mol/l to 18 mol/l of protons. It would have been obvious to a person of ordinary skill in the art to adjust the electrical conductivity of the solution by modifying the proton concentration, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 13 and 15, Gazard et al. disclose the claimed invention except for the proton contained in the solution of the electrolyte containing  $10^{-1}$  mol/l to 7 mol/l of protons. It would have been obvious to a person of ordinary skill in the art to adjust the electrical conductivity of the solution by modifying the proton concentration, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Allowable Subject Matter***

5. Claim 16 is allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or fairly suggest (taken in combination with the

other claimed features) a capacitor comprising an anode containing poly (6-nitroindole) represented by the structure formula (2):



### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,864,472 – capacitor comprising an indole.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric W. Thomas whose telephone number is 571-272-1985. The examiner can normally be reached on Monday - Friday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ewt

  
4/25/05  
ERIC W. THOMAS  
PRIMARY EXAMINER